



Facts at a Glance

National Labor Relations Board

Proposed Rule for Notification of Employee Rights

Background:

- On December 22, 2010, the *Federal Register* will publish a Notice of Proposed Rulemaking that would require employers to notify employees of their rights under the National Labor Relations Act by posting a notice.
- The purpose of the proposed rule is “to increase knowledge of the NLRA among employees, to better enable the exercise of rights under the statute, and to promote statutory compliance by employers and unions.”
- The proposed rule would apply only to private-sector employers subject to the National Labor Relations Act, which excludes agricultural, railroad and airline employers.
- The notice of rights would be provided at no charge at NLRB regional offices or could be downloaded from the Board’s website. Translated versions would be available for workplaces where a significant number of employees are not proficient in English. Electronic distribution, such as by email, posting on an intranet or an internet site, would also be required if the employer customarily communicates with its employees that way.
- The notice would be similar in content and design to the [notice of NLRA rights](#) that must be posted by federal contractors under a recent Department of Labor rule.
- Similar postings of workplace rights are currently required under the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Occupational Safety and Health Act, the Americans with Disabilities Act, and the Family and Medical Leave Act, among other workplace laws.

Public Comment Invited:

- Public comment is invited on all aspects of the proposed rule and should be submitted within 60 days of publication in the *Federal Register*.
- Comments should be submitted either electronically to www.regulations.gov, or by mail or hand-delivery to Lester A. Heltzer, Executive Secretary, NLRB, 1099 14th Street NW, Washington DC 20570.

- Comments submitted after the deadline will be considered only to the extent feasible.

Questions and Answers:

- **Does my company have to post the notice now?**

No. The Board's notice-posting rule is a proposed rule. The public will have an opportunity to comment on the proposed rule, and the Board will carefully consider those comments in crafting a final rule. No employer would have to post a notice unless and until the Board issues a final rule requiring a notice posting.

- **How will the Board enforce the rule?**

Failure to post the notice would be treated as an unfair labor practice under the National Labor Relations Act. The Board investigates allegations of unfair labor practices made by employees, unions, employers, or other persons. It does not initiate enforcement action on its own.

- **Could an employer be fined for failing to post the proposed notice?**

No employer could be fined for failing to post the notice.

- **What would be the consequences for failing to post the notice?**

The Board expects that most employers that fail to post the notice would do so because they were unaware of the rule, and would comply when requested by a Board agent. In that event, the unfair labor practice case normally would be closed without further action. The Board also could extend the 6-month statute of limitations for filing a charge involving other unfair labor practice allegations against the employer. Finally, if an employer knowingly fails to post the notice, the failure could be considered as evidence of unlawful motive in an unfair labor practice case involving other alleged violations of the NLRA.

- **There is no union in my workplace; would the notice still have to be posted?**

Yes. All employers subject to the Board's jurisdiction would be required to post the notice.

- **I am a Federal contractor. Would I have to post the notice?**

The Board's notice posting rule would apply to Federal contractors. However, the Department of Labor already requires Federal contractors to post an almost identical notice of employee rights. A contractor would comply with the Board's notice posting rule by posting the Department of Labor's notice.

- **How would I get the notice?**

The Board would provide copies of the notice on request at no cost to the employer. These could be obtained by contacting the NLRB at its headquarters or its regional, sub-regional, or resident offices. Employers could also download the notice from the Board's website and print it out.

- **I communicate with my employees electronically, through the Internet or by email. Would I still have to post the notice?**

Yes. The rule would require every covered employer to post the notice electronically if that is the customary means of communicating with employees, in addition to a physical posting. The wording to be used in the email, web page or link is specified in the proposed rule.

- **Many of my employees speak Spanish, and don't understand English very well. Would I still have to post the notice?**

Yes. If a significant portion of employees are not proficient in English, the employer must post the notice in the language the employees speak. The Board would provide translations of the notice, and of the required link to the Board's website, in the appropriate languages.

- **I operate a small business. Would I have to post the Board's proposed notice?**

The proposed rule applies to all employers subject to the Board's jurisdiction. The Board has chosen not to assert its jurisdiction over very small employers whose annual volume of business is not large enough to have a more than a slight effect on interstate commerce. The jurisdictional standards are summarized in the proposed rule and are explained in greater detail [here](#).

- **Would I have to maintain records or submit reports under the Board's rule?**

No. There would be no record-keeping or reporting requirements.

December 21, 2010